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Committee on Environment
and Public Works

Washington, D.C.

HEARING ON WATER AFFORDABILITY AND SMALL SYSTEM ASSISTANCE

Wednesday, May 31, 2023

United States Senate

Committee on Environment and Public Works

Subcommittee on Fisheries, Water, and Wildlife

Washington, D.C.

The committee, met, pursuant to notice, at 2:43 p.m. in room 406, Dirksen Senate Office Building, the Honorable Alex Padilla [chairman of the subcommittee] presiding.

Present: Senators Padilla, Lummis, Cardin, Whitehouse, Kelly, Ricketts.

STATEMENT OF THE HONORABLE ALEX PADILLA, A UNITED STATES SENATOR FROM THE STATE OF CALIFORNIA

Senator Padilla. Good afternoon, everybody. This hearing will come to order.

It is my honor to welcome everyone to the first hearing of this Congress for the Senate Environment and Public Works Subcommittee on Fisheries, Water, and Wildlife.

I apologize for the slightly delayed start of the hearing. They opened the Senate Floor just a few minutes ago. I can attest that Senator Lummis and I were among the first to cast our votes so we could race over here and try to begin as on time as possible. We do expect additional colleagues to join us over the next several minutes.

Today, we will be examining the issue of water affordability and small water system assistance in communities across the United States. There is a reason why there is a saying in the West that, "whiskey is for drinking, and water is for fighting over." Access to water is the foundation for strong and healthy communities, economies, and families.

As a Californian, this topic is near and dear to me and to the 40 million Californians that I represent, as well as to all Americans who have ever had to worry about whether or not they could afford their next water bill or if their water would be shut off because they can't keep up with the bills.

In a country as wealthy as the United States, nobody should have to worry about whether aging, deteriorating pipes in rural communities will hold up, whether wells could run dry due to an extended drought, or whether the climate crisis and extreme weather will bring catastrophe to our water supply. It is only right that we take a close look at the state of our Country's water systems and the Federal investments needed to make sure that all Americans have access to safe, affordable, and reliable water supply. After all, it is not just about our economy and environmental protection. It is about fundamental health and human safety.

I want to thank our witnesses who are here today to discuss their experiences with America's aging water infrastructure, as well as with the families who are experiencing rising costs. I also want to thank Chairman Carper, Ranking Member Capito, and my subcommittee Ranking Member, Senator Lummis, as well as all of our hardworking committee staff for making today's hearing a priority.

When it comes to clean water, Americans too often face a heartbreaking choice. Just last fall, the Los Angeles Times told the story of Rosario Rodriguez, a woman living in a rural community in western Fresno County in California. With bills to pay, a family to feed, and a skyrocketing water bill after a summer of drought, Rosario was forced to choose between paying

the electric bill or the water bill, not to mention food, school supplies, clothing, and more.

Because there were few assistance programs available for water bills beyond one-time payments, she was forced to pay the water bill in full and look elsewhere for electric rate assistance.

In 2012, California became the first State in the Nation to recognize in statute a human right to water, but California can't do it alone.

For the Rodriguez family and many families like them, extreme drought and the increasingly devastating impacts of our changing climate, combined with aging water infrastructure, have made access to clean, affordable water a privilege instead of a basic human right. This is the result, in large part, of decades of underinvestment in water infrastructure.

Water systems, especially those in small, rural, or disadvantaged communities, also frequently lack adequate staffing and the financial capacity to make necessary upgrades. As a result, the cost of maintaining and repairing water infrastructure has fallen on States, localities, and of course, ratepayers.

In fact, over the past 20 years, water rates have increased at three times the rate of inflation, significantly higher than the rate of energy bill increases, for example.

The American Water Works Association has found that one in three Americans struggle to pay their water bills on time, and the EPA projects that 36 percent of U.S. households will not be able to afford drinking water by next year. That is more than one in three.

This all points to an alarming water affordability crisis and an environmental justice crisis as well, with underserved communities who already struggle to afford utilities in rural, low-income, and Tribal communities being hit hardest by rising water rates.

In this moment, we need a unified approach from the Federal Government to ensure that all Americans have access to affordable, clean drinking water.

Over the past few years, I have been proud to see Congress come together to provide over $1 billion to help low-income households pay their water bills after the outbreak of COVID-19. I was proud to help pass the Bipartisan Infrastructure Law, the single largest investment in water infrastructure in our Nation's history, bringing an unprecedented $55 billion to communities across the Country to bolster drinking water and wastewater infrastructure, replace lead pipes, and address forever chemicals known as PFAS.

I was also proud to support this committee's work to authorize a new EPA pilot program to help rural and low-income

households pay for water bills. Together, these are great first steps to lifting up families in need and investing in our Nation's clean water future, but these are temporary rate assistance programs, and investments that only begin to address the backlog of our deferred maintenance needs. We cannot stop there.

The $1 billion for utility assistance, for example, is set to expire this year, and despite the robust investments we made in LIHEAP, a permanent energy assistance program, we still do not have a permanent equivalent program for water assistance.

That is what today is all about: working together to see how we can provide permanent water utility assistance to communities in need and how we can make sure that no American has to choose between putting food on the table or pouring water into their glass.

I am excited to hear from all of our witnesses about what families are still facing, what communities and utilities see as the most pressing challenges to delivering affordable water, and how we can best strengthen our Nation's water supply systems.

With that, I would like to turn to Ranking Member Lummis for her opening statement.

[The prepared statement of Senator Padilla follows:]

STATEMENT OF THE HONORABLE CYNTHIA LUMMIS, A UNITED STATES SENATOR FROM THE STATES OF WYOMING

Senator Lummis. Thank you, Chairman Padilla. I look forward to working with you on the issues that we are discussing today, as well as other items, such as reforms to the Endangered Species Act and to our work to ensure the continued supply from the Colorado River.

I want to thank our witnesses for being here today. I especially want to thank Mark Pepper, who runs the Wyoming Association of Rural Water Systems. You are always such a help in informing me about what our small, rural water systems are facing, so I am deeply grateful for your being here today. You wear many hats in Wyoming. I am deeply grateful that you took time out to be here today because I know you are super busy.

Water is the key to life. While this sounds like an overly simple statement, for many Americans, it is a harsh reality. From droughts that can strain the supply to ever-increasing water bills, access to water is not universal across the Country. In my home State of Wyoming, it is a constant struggle to keep water system operators to meet the needs of their communities, keep rates low, while simultaneously complying with complex and evolving regulatory requirements from the EPA, and that is a challenge to our systems as well.

Unfortunately, rural water systems have their own

additional challenges. Small populations means less ratepayers, which means less revenue needed to make capital investments. I worked with my colleagues on this committee to make significant investments in water infrastructure in the previous Congress, and I was pleased to see that effort included the Infrastructure Investment and Jobs Act.

However, Congress failed to make the investments in that bill in a fiscally responsible manner. If we are to continue investing in the needed infrastructure, Congress must find ways to ensure that we are not simply transferring our obligations to future generations.

Outside of the capital investment needed, small systems also face difficulty finding, training, and retaining a workforce. Some estimates suggest that one-third of the water sector workforce will be eligible to retire in the next decade. That loss, not only of personnel, but institutional knowledge will put tremendous strains on water systems across the Country. Once again, rural America will be the first and hardest hit by these retirements.

In addition to these items, I would be remiss if I did not express my concern with EPA's actions as it relates to PFAS. PFAS compounds are designed to be durable and not break down naturally. As a result, these compounds can be found in water and soils across the Country.

While we are working to better understand the science behind this class of chemicals, it is clear they do pose a threat to human health. I support EPA's actions to establish a national primary drinking water standard for the most common PFAS compounds. Every single American deserves the peace of mind that their water is safe to drink.

But I am concerned that levels selected by EPA at four parts per trillion will represent an unfunded mandate on water systems while not being supported by the science. That level represents not a health-based standard, but instead the level at which these compounds can reasonably be detected. For reference, four parts per trillion is roughly the same as four droplets in an Olympic-sized swimming pool.

As one might guess, the detection and treatment technology needed to handle something at that scale will be costly, and those costs will be borne by the communities these systems serve. EPA must evaluate the academic literature from across the world when selecting the levels for these standards and not just rush to the costliest option.

EPA is also proposing to designate those same PFAS compounds under CERCLA, the Superfund law. If finalized, water systems that are treating for PFAS may be held liable under CERCLE, again, at the expense of the ratepayer.

When CERCLA was first written, it was done using the

"polluter pays" model. Water systems, however, are not polluters of PFAS, as they have never used those compounds. As such, it is imperative that we work here in Congress to pass legislation that clarifies that entities such as water systems are not held liable for pollution to which they did not contribute.

Thanks again for calling this hearing, Mr. Chairman. I look forward to hearing from our witnesses.

[The prepared statement of Senator Lummis follows:]

Senator Padilla. Great, thank you.

Now, I would like to turn to our witnesses. First, I would like to introduce Kyle Jones, who serves as Policy and Legal Director for the Community Water Center, an environmental justice nonprofit organization that works in rural and low-income communities in places like the San Joaquin Valley, which many refer to as the salad bowl of America. Mr. Jones has a background in environmental law, land use law, and local government advocacy.

Mr. Jones, you are a long way from Visalia, but we know that you truly understand the impact that the policies that we enact here in Washington have on the folks back home. Your voice, and the voices of the communities you work with must be a part of this conversation.

Let me also introduce Rosemary Menard, the Water Director for the City of Santa Cruz. Ms. Menard has served for over 40 years in public service, holding several water utility leadership positions in Seattle, Washington; Portland, Oregon; and Washoe County, Nevada.

As Water Director in Santa Cruz, Ms. Menard has helped guide the Sanat Cruz Water Department through multiple droughts, wildfires, repair and replacement of aging infrastructure, a pending water treatment plant upgrade, meter replacements, and a plan to supplement the city's water supply and prepared for the

ongoing effects of our changing climate.

Thank you for testifying today. I look forward to hearing about the particular challenges and solutions water utilities are thinking about in the short, medium, and longer term.

I now, once again, turn to Senator Lummis to introduce Mr. Pepper.

Senator Lummis. Mr. Pepper has over 43 years of finance and administration experience, 34- plus years in senior management positions, and eight-plus years in public accounting. He has been involved in surface and groundwater issues in Colorado, Nevada, Texas, and Wyoming during his career.

Mr. Pepper chairs the Casper Area Economic Development Joint Powers Board. He also served on the Wyoming Water Association Board of Directors, and was appointed by the governor to the following current commissions or task forces: the State Emergency Response Commission, the State Qualification Review Committee, Governor's Non-Point Source Task Force, Governor's Small System Task Force, Governor's Special District Task Force, and he is a member of the Governor's Solid Waste Citizens Advisory Committee.

I don't know how you have time to do anything but go to meetings.

He heads the State of Wyoming's largest utility membership organization that administers training and technical assistance

programs, enabling Wyoming's community water industry systems to meet their requirements of the Safe Drinking Water Act, Clean Water Act, and the Resource Conservation and Recovery Act.

Mark Pepper is a very knowledgeable and busy man. Thank you again for coming to Washington. I yield back.

Senator Padilla. Thank you, Senator Lummis.

In this subcommittee, there is no requirement that we swear in witnesses, but we trust that the testimony shared today will be the truth, the whole truth, and nothing but the truth.

With that, Mr. Jones, your testimony, please.

STATEMENT OF KYLE JONES, LEGAL AND POLICY DIRECTOR, COMMUNITY WATER CENTER

Mr. Jones. Good afternoon, Chair Padilla, Ranking Member Lummis, and members of the subcommittee.

My name is Kyle Jones. I am the Policy and Legal Director with Community Water Center.

For background, Community Water Center started in Visalia, California organizing nitrate-impacted residents to help them understand what is in their water and what they can do about it, and has since expanded to focus on advocacy and direct technical assistance to support long-term, community driven solutions for the drinking water crisis in California.

We also serve as a core member of the Water Equity and Climate Resilience Caucus, a caucus focused on water equity nationally. As noted, in California, we recognize the human right to clean, safe, and affordable drinking water for all. This is a necessary condition in order to ensure that there is economic development and self-determined futures for the communities that we work in.

Many of the communities that we work in, unfortunately, are disproportionately challenged. Many are small communities that are often failing to meet basic drinking water needs. California alone has 395 failing water systems serving over 800,000 thousand people. Almost 3 million others are in systems

that are either at risk of failing or potentially at risk of failing. These systems disproportionately serve small, rural communities and low-income communities of color.

The residents we work with are also faced with increased levels of contamination. Residents that we work with cannot use their taps for drinking water, and some can't even take hot showers without fear of getting sick or having increased risk of cancer.

A particular challenge in the west is the increasing aridification and droughts fueled by climate change that is pushing us to have to rely more and more on less and less groundwater that is already being over-pumped by agriculture.

As noted, many of these systems lack the technical, managerial, and financial capability to access resources that are out there. These systems don't have the staff or expertise necessarily to navigate funding streams like the State Revolving Funds. Even if they could, State Revolving Funds and bonds often can't provide a full solution, as oftentimes operation and maintenance requirements can't be funded unless they make solutions too costly for communities.

All of this leads to more unaffordable water. The small communities with small ratepayer bases face the highest rates. One community, El Porvenir in Western Fresno County that our partner organization, Leadership Council for Justice and

Accountability works at, has a fixed rate every month of $280. That is before any volumetric charge for the use of water.

Further, because of contamination, our communities are paying twice for water: once for the tap they can't use and again for the bottled water they need to survive. It is unconscionable.

Treatment costs are also going up, and we are facing a situation where communities are either forced to choose between water that is safe or water that is affordable, but we believe in the United States that we can provide both. Affordability programs are not universal like they are for other utilities like energy, gas, food. Safe drinking water is a necessity, and whether or not a family can afford their water should not be based on their ZIP code.

The affordability crisis really came to a head during the pandemic. California had over $1 billion in water debt as a result of the pandemic, and wasn't alone. While we have been successful in crafting some solutions focusing on debt, we are not addressing the root of the problem, which is unaffordable water rates.

What are the solutions? We believe there needs to be continued and expanding investments in water infrastructure, with a focus on removing barriers that limit access for small water systems. This includes things like expanded outreach and

engagement to ensure that small, rural communities have projects that are ready to be funded when infrastructure programs are available and also funding to solve operations and maintenance.

We also encourage Congress to look at other ways to fund drinking water, such as rural development at USDA, the Bureau of Reclamations programs. We also need a low-income water assistance program. We need sustained funding to make sure that water is affordable so that folks don't fall behind and get into debt.

We can't create a program alone as a State. We need support from the Federal Government. So we urge the creation of a LIRA program this year, and in addition, extension of LIHWAP to ensure that in the meantime, there is still some assistance for families in need. We also ask for reforms to the LIHWAP program to ensure it can be more successful for States like California.

We recognize that there is a human right to clean, safe, and affordable drinking water for all. We urge Congress to join us and work towards fulfilling this human right. Thank you.

[The prepared statement of Mr. Jones follows:]

Senator Padilla. Thank you, Mr. Jones.

Ms. Menard?

STATEMENT OF ROSEMARY MENARD, WATER DIRECTOR, CITY OF SANTA CRUZ

Ms. Menard. Chairman Padilla, Ranking Member Lummis, and members of the subcommittee, my name is Rosemary Menard, and I am the Director of the Santa Cruz Water Department. Thank you for the opportunity to share with you my perspective on the important issue of the affordability of water and wastewater rates.

The Santa Cruz water system serves just under 100,000 people through 27,000 connections. We own, operate, and maintain a complex water system to produce and deliver treated drinking water that is both groundwater and surface water from those sources.

Most of the system's major facilities were constructed before 1960 and have reached the end of their useful life. In addition to our aging infrastructure, we are challenged with the impacts of our water supply and infrastructure from climate change-fueled extreme drought conditions and severe storms while maintaining compliance with the State and Federal drinking water standards. Meeting these various responsibilities comes with a cost that is ultimately borne by our water customers who pay their bills.

To ensure uninterrupted, quality service for our customers, Santa Cruz has developed a multiyear capital investment program, or CIP, that currently has a $650 million price tag. To pay for

the CIP in 2016, a long-range financial plan was developed that had a project funding strategy that was heavily focused on debt financing.

To cover the costs of the CIP, the Santa Cruz City Council unanimously approved significant rate increases in 2016 and again in 2021. The 2021 rate increase schedule is now being implemented and includes a 16 percent rate increase in both July of 2023 and July of 2024. Looking ahead, we expect to have continued rate increases through at least the next decade to address the issues in our water system as they continue to age and we deal with the climate challenges.

While our investment and rate increases to pay for them are necessary to maintain and upgrade Santa Cruz's water system, we recognize their effects on our customers, particularly those at the lower end of the income scale. Today, our data shows that about 20 percent of the households we serve are already heavily financially burdened by their water and wastewater rates due to about a 250 percent increase in the cost of water since 2014 and also an anticipated additional 50 percent increase by 2026.

This is where the Federal Low-Income Water Customer Assistance Program could play a vital role. Santa Cruz is unable to provide rate assistance through a statutory requirement in the State of California that prohibits us from using rate revenues from one set of customers to provide

resources to subsidize the cost of service to another set of customers. We are one of many States that have that prohibition, and there are a number of other States in the Country where there is a gray area, legally, about whether utilities can actually use that form of rate revenue to provide rate assistance. So it discourages water utilities from attempting to stand up such programs.

This is why the Low-Income Household Water Assistance Program, LIHWAP, that you just heard about, was so critical when Congress established it during the pandemic. For the first time, the Federal Government offered direct support to help low-income households maintain essential water service, just as for years, the LIHEAP Program has provided for heating and cooling assistance.

In Santa Cruz, as of January of 2023, the LIHWAP program provided nearly $580,000 funds to offset utility arrearages to about 800 customers. In the recent lifting of the California COVID area prohibitions against disconnections for nonpayment, an additional 44 customers have received some one-time assistance. These are really important benefits, but one-time assistance only solves part of the problem, and we need ongoing assistance.

Looking forward, I would really ask Congress to consider multiple options, starting with extending LIHWAP through the

next fiscal year 2024, so that critical assistance can occur, and also additionally to consider how the bipartisan legislation that allowed for the EPA pilot program to develop might be funded and provide an opportunity for there to be some exploration of that program.

I appreciate the opportunity to share Santa Cruz's affordability challenges with you today, but please remember that virtually every community in the Country also has customers with similar water-related assistance needs. Now is the time to act to ensure their ability to access essential water services and wastewater services, and are not threatened due to the cost.

I thank you for the opportunity to share my testimony today. I will be happy to answer any questions.

[The prepared statement of Ms. Menard follows:]

Senator Padilla. Thank you.

Mr. Pepper, your testimony please.

STATEMENT OF MARK PEPPER, EXECUTIVE DIRECTOR OF THE WYOMING ASSOCIATION OF RURAL WATER SYSTEMS

Mr. Pepper. Good afternoon, Chairman Padilla, Senator Lummis, and members of the subcommittee. It is an honor to appear before you today on behalf of small and rural communities.

I am Mark Pepper, the Executive Director of the Wyoming Association of Rural Water Systems, a nonprofit association representing all small water and wastewater systems in Wyoming.

I am also here to testify on behalf of the National Rural Water Association, which represents over 31,000 small and rural water systems across the Country. Our member utilities have the very important responsibility of complying with all applicable Environmental Protection Agency regulations and ensuring the provision of safe drinking water and sanitation services to the public all day, every day.

The State Revolving Funds, which provide Federal dollars to small towns for building, expanding, and maintaining their drinking water and wastewater infrastructure were authorized by this committee, and thank you. One of the key aspects of our work at Rural Water is to provide direct assistance to small and rural communities in operating, governing, financing, upgrading, and maintaining their water and wastewater infrastructure.

Local governments and nonprofit water utilities exist

solely to serve the public's interest. They are directly accountable to their local citizens through local elections and are often governed by duly elected volunteer citizens.

For the next few minutes, I would like to discuss some of the most important issues facing small water systems right now, including affordability, the implementation of the Infrastructure Investment and Jobs Act, personnel challenges, and PFAS regulatory burdens.

First, the two largest costs of most utilities are personnel costs and energy costs. Compounding these expenses are supply chain issues impacting access to chemicals for water treatment, the replacement expansion parts, and scarcity of qualified professionals like engineers and contractors.

Inflationary pressures are also hampering affordability. This has had a stagnating pressure on personnel costs as operating costs have taken precedence.

The SRF set-asides help to fill the technical gap by allowing qualified professionals to provide on-site assistance, comply with the myriad of Federal Safe Drinking Water and Clean Water Act regulations, as well as access to supply chains and troubleshooting advice, which is helping to keeps rates affordable. Should SRFs set-asides be reduced or eliminated, I would suspect many systems will turn unaffordable quickly.

As for the Bipartisan Infrastructure Law, rural water

systems are grateful to this committee and Congress for the enactment of this landmark legislation. However, we are hearing from a lot of systems and States that the funds provided in the bill have been slow to be implemented due to lack of supplies and engineers to do the work.

Another quandary in Wyoming is that operators and agencies have questions with the definition of disadvantaged community. With the bulk of Wyoming systems serving under 1,000 people, they are at a socioeconomic disadvantage due to size, expertise, workforce, and a limited budget. We believe these communities should qualify as disadvantaged under the bill.

We also believe an extension of time to get the money out based on the lack of supplies and engineers is warranted. We would also like the State match to remain at 10 percent for at least five years instead of just years one and two. The 20 percent match for years three and on may make spending difficult in meeting the match requirement.

Regarding personnel, the water sector is facing critical staffing shortages with up to 50 percent of the workforce expected to retire in the next decade. The NRWA Apprenticeship Program is an essential tool being used right now in 35 States to address this critical issue. This novel initiative was specifically designed by industry leaders to attract, train, and retain the next generation of the water workforce. These

strategic partnerships have already created over 600 jobs for the water industry.

Regarding PFAS, NRWA and WARWS share the committee's goal of eliminating PFAS from the public's drinking water and environment. However, the looming threat of EPA's proposed PFAS MCLs and the liability costs associated with having certain PFAS compounds designated under CERCLA could price small water utilities out of existence, which is why we are extremely grateful and express our strong support for S. 1430, introduced by Senator Lummis. The bill will preserve a fundamental element of environmental law, which is the important "polluter pays" principle for cleanups of PFAS designated under CERCLA.

Finally, access to certified labs and Subtitle C disposal facilities and the associated costs will further put strain on very thin operating margins.

In closing, Mr. Chairman, small and rural communities thank you for the opportunity to testify before the subcommittee today to express our thoughts, reservations, and acknowledge the numerous opportunities this committee has provided rural America in the crafting of Federal water and environmental legislation. Thank you.

[The prepared statement of Mr. Pepper follows:]

Senator Padilla. Thank you, Mr. Pepper, and all three of you for your testimony.

We now turn to questions from the committee. I get to begin.

Aging infrastructure and deferred maintenance has left our water systems vulnerable, as I think we have all laid out here. We unfortunately saw the worst of that play out last year in Jackson, Mississippi, a disaster which was decades in the making. Unlike other forms of infrastructure like bridges and roads, clean drinking water is not primarily funded by taxes. Instead, more than 90 percent of the average utility's revenues comes directly from constituents' water bills.

Ms. Menard, I commend you for your efforts to secure various forms of Federal and State funding, including through WIFIA loans, LIHWAP, SRFs, rate increases, and other sources. But not every water agency is as adept as you have been in Santa Cruz, often due to staff and other capacity challenges.

Can you speak to the challenges of accessing funding from so many different sources? Is it time for maybe a new paradigm for how we finance and fund water infrastructure?

Ms. Menard. Thank you for the question, Senator Padilla. I would be happy to speak to that question.

One of the things I think is really important for us to think about as we think about affordability today and going

forward is, how are we going to cover these very big costs and for spreading out over a relatively small rate base, whether you are one of the rural systems that was spoken of by one of my colleagues, whether you are a small system, spoken of by Mr. Jones, these are big questions.

Even in Santa Cruz, the number I gave you of $650 million for a capital program to rehabilitate, replace, and climate-proof our water utility is a pretty darn big number when you spread it across 27,000 accounts. It results in the kind of rate increases that we have been seeing that are really creating these problems for our low-income customers.

I do think that, unlike so much of our other infrastructure, we do need to think about whether or not the business model we are using to fund water utilities, local water utilities, is really broken and can get us where we need to go through this next cycle of reinvestment. If it is not, then what is the right solution?

I think that there needs to be more State and Federal funding that comes in to help us with these things. Some of that is loan funding, and it is great, and we have obviously accessed that. We have gone from about, say, $14 million in debt in 2014 to now, Santa Cruz has about $370 million in debt, and more coming because of the funding strategy.

That is a very significant debt burden for a community to

take on, and a lot of communities simply won't do it because of fear of how that will require rates to increase. I think it is time for us to be looking at new paradigms.

Senator Padilla. Thank you.

My next question is in the area of rising costs of water. The graph behind me illustrates how household water and wastewater bills have increased by 160 percent since 1998. That is a greater rate of growth than electricity bills, rent, or medical bills.

The burden of unsafe and unaffordable water disproportionately impacts lower income communities and communities of color. As Mr. Jones shared in his testimony, many rural communities, including Tribal communities, farmer group communities, and communities near sites of legacy industrial contamination in reality pay twice for safe drinking water: once for the contaminated water flowing from their taps, and once again for the cost of bottled water that they must rely on.

As the disparity between water rate increases and income growth has increased, so too have household water affordability issues. Mr. Jones, ratepayers, especially low-income households, cannot continue to bear the burden of deteriorating infrastructure. Federal investment in water infrastructure has declined by 77 percent since its peak in the 1970s.

How critical, in your opinion, is Federal investment in water infrastructure for supporting water affordability?

Mr. Jones. Thank you for that.

It is absolutely critical that we continue and expand the overall investment, and also prioritize making sure that those investments can reach the communities that need it most, that have had the biggest challenges in accessing funding, historically.

Part of the work we do through some of the expanded community outreach and engagement projects is do the work of organizing community residents to really understand what water solutions are and get them in support of that.

A lot of the work we do focuses on consolidations, which honestly, is some of the most cost-effective ways to ensure we can build a stronger ratepayer base to be able to cover these costs. In order to get a consolidation going, you really have to get two communities who have historically not been working together to work together. That takes a lot of work on the ground.

Making sure that the funding sources are being paired with the right types of outreach and engagement can be, it is absolutely critical to make sure that these solutions that we are funding are making the most impact.

Finally, I think, as we have all said, that there needs to

be a focus on affordability when it comes to funding these projects. Even with some of these solutions, there are going to be increases in rates. That is hard for customers, especially if you are a low-income farm worker or undocumented community, like we work with, to understand that this solution comes at a cost.

Making sure we have a program to ensure water is affordable is absolutely critical to make sure that we can get to these solutions for contamination and other issues.

Senator Padilla. Thank you.

Senator Lummis?

Senator Lummis. Mr. Pepper, again, thanks for being here. As you know, I have been focused on concerns about PFAS. I want to ask you about that, as well.

How are the regulatory requirements from EPA driving up operating costs for water systems? So this is PFAS and other ways in which EPA regulations drive up costs.

Mr. Pepper. The regulatory environment right now is expanding. The Lead and Copper Rule has been revised, requiring that we get lead service lines out. We all appreciate that that has to happen, but it is very expensive, and the amount of money that has been designated for lead line replacements is woefully inadequate.

I think that you throw in PFAS on top of that, both at the

MCL level, as well as at the CERCLA level and that becomes an unsustainable perfect storm. It just can't. We all want clean water, and we want safe, affordable drinking water, but there has to be an approach that allows that.

I make this statement a lot, and I will go on the record. No system in the United States is sustainable on rates alone. It has to include funding from other sources, whether that is other taxes, the loan and grant programs, all of that. The regulatory environment just adds that additional cost layer.

A lot of the systems, especially that we work with in Wyoming, with the pertinent number being under 500 in population, just do not have the expertise to address a lot of that. That is where our technical assistance comes in and helps, because we are able to provide that gap, if you will, of people who can fill in and do the work, help and assist in doing that, as well as keeping it affordable, because all of our services are provided free of charge to the systems.

I do think that the regulatory environment, if you look at the old public health advisory for PFAS being at 70 parts or 90 parts per trillion, dropping it to four parts, we have had a couple rounds of testing in Wyoming that were done when the protocols were not that great, and so there were a lot of lab errors and what-not. But we did have some detects under the public health advisory level.

Senator Lummis. Were the detects at 40 to 70 parts per trillion, or were they at the four parts per trillion?

Mr. Pepper. Both. We had some that were detect, and so you have to assume they were low enough to have a detect.

Senator Lummis. If something is detected, does it have to be addressed?

Mr. Pepper. Well, that is the million-dollar question. We don't know. Not all the PFAS, PFOA, PFOS compounds cause health issues. I think they have identified six that have that they are going to try and create the MCL for. Our focus on the MCL is that it will then cause the ratepayers to pick up the tab to cure that violation.

Senator Lummis. So, you mentioned the MCLs, but you also mentioned CERCLA. The role of CERCLA in this is that water systems could bear the liability costs, correct, if EPA moves forward with designating certain PFAS compounds as hazardous substances?

Mr. Pepper. Correct, and that is if we look at it as a hazardous waste product, the cost to do that is severe.

In Wyoming, the closet lab that would be able to do any of that testing is Cincinnati. So you have the shipping costs, you have the hold times, you have all the issues of lab testing.

The closest Subtitle C hazardous waste disposal site is in Utah. There isn't anything close enough, so I can use this,

when Sundance from Sundance to Salt Lake is a heck of a trek, so all that hazardous material would be expensive as all get-out to transport, and the liability to clean it up then, marked as a hazardous waste site, would be astronomical. Like I said, it would probably price those communities out of existence.

Senator Lummis. Normally, under CERCLA, the polluter pays, but if the substance is there and the polluter can't be identified, the ratepayer could pay. Correct?

Mr. Pepper. Correct. That is where we run into nonpoint source pollution, when you can't find that person. There are some programs out there.

As indicated, I sit on the Governor's Nonpoint Source Task Force. We do 303(d) funding and 219 funding to help clean up some of those issues. But the State of Wyoming gets about $700,000 a year from those two programs. It wouldn't touch having to try and do PFAS if that gets thrown into the mix.

Senator Lummis. Thank you for your testimony.

Mr. Chairman, I yield back.

Senator Padilla. Thank you. As everyone can see, members are coming in and out of the committee, eagerly trying to time their opportunity to pose questions to our witnesses. I recognize Senator Kelly, if he is ready, or if he needs a minute?

Senator Kelly. Ready to go.

Senator Padilla. Senator Kelly.

Senator Kelly. Thank you, Mr. Chairman, and thank you to our witnesses for being here today.

Mr. Chairman, thank you for holding this hearing on this important topic, certainly for Arizona and California and the west, we are facing serious challenges with drought and climate change. Our access to reliable supplies of water and water affordability is directly related to these challenges.

As sources of water become more scarce, the price is clearly going to go up. For example, I live in Tucson, Arizona, where the average water bill increased by 118 percent between 2010 and 2018. In some cases, these increasing water rates can drive more conservation. I have been told it is the one thing that actually works well.

But increasing water bills also has a significant impact on households who are living paycheck to paycheck. Folks are really struggling with this.

Ms. Menard, I understand that your community has faced water supply challenges due to drought. How has the City of Santa Cruz balanced the challenges of needing to increase rates as water supply costs increase with the need to ensure that water remains affordable to your residents?

Ms. Menard. Thank you for that question, Senator Kelly. I think that really important thing that we have done in Santa

Cruz is acknowledge, once we initiated our major capital reinvestment cycle, including the infrastructure side as well as the supply side, that we were potentially going to be negatively impacting some of our folks in our community who are least able to pay.

One of the things that we have done is we have really studied that problem and gone into detail to try to understand not just what is occurring, but what will occur as we continue to make these really necessary reinvestments in systems and facilities and supply.

I think another thing we have done is we have recently completed an advanced metering infrastructure implementation in our community that has allowed us to help people, particularly focused on low-income customers, look at and be notified immediately when they start having a leak so that we can assist them with getting that leak repaired.

We have redirected our conservation programs. Santa Cruz has a very strong ethic for water conservation, and our customers, indoor and outdoor use averages about 44 gallons per person per day, which is probably the lowest or near the lowest in the State and maybe lots of other places. One of the results of that is that we have been able to redirect some of our resources internally to supporting this advanced metering infrastructure initiative to communicate to customers

immediately when a leak is occurring so that they can get that fixed.

We are looking at opportunities to support helping people get those leaks fixed and dealing with the fact that, in rentals for example, the tenant is responsible for the bill, and then it is not incentivized for the owner to actually pay to fix the leaks. We have been working on some ways to deal with that as well.

Senator Kelly. I recently added one of those to the water meter in my house that will detect and give you a lot of data on water usage, so thank you.

Mr. Jones, one way that we can address rising rates for those with difficulty making ends meet is through some Federal water assistance programs. That is why I supported the creation of a water assistance pilot program for rural and low-income communities in the Bipartisan Infrastructure Law. In my remaining time here, Mr. Jones, can you speak to how water affordability assistance programs can help to ensure increasing water rates do not push families into poverty or cause them to lose access to drinking water?

Mr. Jones. Yes. I think the situation we have right now, and thank you for that, in California and across the Country, is that with water rates ever increasing, that folks are continuing to face shutoffs and losing access to water entirely without

assistance. All we have so far established on the Federal level is the Low-Income Household Water Assistance Program, LIHWAP, which is addressing debt and only addressing debt, at least in California, one time. That can be a big challenge. Going through the journey and what it takes for a customer, a family, to go through the process of having to choose between paying their water bill to avoid shutoff or maybe not paying rent or not paying for as much food, which is a challenge that none of us should have to face.

While it is great that we have debt assistance so far, without a long-term program that actually makes water affordable in the first place, folks aren't ever going to be made whole, and we are going to continue to face challenges. I think the support for that pilot and really getting that program going is going to be absolutely critical to ensure that folks aren't getting shut off as we continue to invest in water and make it safe for all.

Senator Kelly. Thank you.

Senator Padilla. Thank you, Senator Kelly.

Senator Ricketts?

Senator Ricketts. Thank you, Chairman Padilla and Ranking Member Lummis, for holding this hearing today on water affordability.

I want to thank all of our witnesses for coming here today

to talk to us about it, and for all of your support for water infrastructure projects across the Country.

I have heard from Nebraskans who have concerns about the costs that local water utilities and ratepayers will bear with regard to PFAS monitoring and remediation. I understand the importance of making sure we have clean water for everybody, but the concerns, especially for the cost burden in our rural and more remote water utilities.

I am going to ask the entire panel to weigh in on this. I am going to start with you, Mr. Pepper. What tools would be helpful for testing and compliance, especially to water infrastructure in rural and remote communities? What are some of the things that these communities can look for?

Mr. Pepper. As far as testing goes, thank you, Senator, for that, the access to additional labs would be one thing that we can use that would allow for more appropriate or quick testing, so we know where we are.

PFAS is a new animal. It has been around for a long time, but the testing is not where we would like it to be yet. I think the labs that are starting to do that have indicated that they have gotten much better at the detections and being able to isolate which compound they are dealing with. But those are few and far between, and the costs are exorbitant.

We understand some of the PFAS tests can be anywhere from

$1,500 to $10,000. If they are required to be done on a periodic basis or a monthly basis, that could just ruin a small community.

I understand that the treatment, of course, treatment is everything. We don't know what is the best treatment. There are a lot of scientists that are working on methodologies to try and deal with the treatment to remove PFAS or PFOS, PFOA, from the drinking water.

We don't have it yet, as far as I know, in a usable form. I have heard that there is some costs in, I want to say Pennsylvania, maybe the State, that has a community that did put in a UV type reactor that is able to incinerate the PFAS, but it was a cost of, I want to say, it was a town of 10,000 and the cost was $25 million or $30 million. We just can't afford it. We need a lot of R&D and testing and treatment.

Senator Ricketts. Thank you, Mr. Pepper.

Ms. Menard?

Ms. Menard. Thank you for that question, sir. One of the things that is going on in Santa Cruz is we are making this massive generational reinvestment in our water system as we are working on a major water treatment plant upgrade. Our treatment plant is from 1960. It hasn't really had major money put in it since before the 1986 Amendments to the Safe Drinking Water Act. So it does its job now, but it is not going to be the water

system, water treatment process for the future.

We are looking at a number of opportunities to use that treatment plant upgrade to prepare us, future-proof our water system against the incremental changes that occur in water quality regulations over time.

PFAS is one of the issues we are looking at. Obviously, disinfection biproducts is another one that we are working on.

We are looking at granular-activated carbon, which is one of the best available technologies that EPA has identified. The issue with that one is not so much a huge capital cost, at least not in the system we are looking at, of about $158 million construction costs for this treatment plant that we are looking at. The capital for the CAC contractors is maybe around $5 million, so it is not a huge, big, it is not nothing, but it is not the hugest part of the deal.

But the operating costs of that part of the system is anticipated to increase our ongoing operating costs by potentially as much as 500 percent, so that is a big issue for us. I think that one of the things that we are all looking at as we look at these really tiny numbers is, how do we best balance that question of what to do with the treatment process versus how to make sure that we don't put so much treatment in place and then drive our operating costs, which go on forever, up to a place where we maybe balance one thing, but we cost

something else.

Senator Ricketts. Great, thank you.

Mr. Jones, I am out of time, so please, can you weigh in, but just briefly?

Mr. Jones. Thank you, Senator. I will be quick.

I think a lot of what everyone mentioned, and in addition, making sure there is technical assistance for testing out there. We have over 2,700 water systems in California. A lot of them are small and rural; they will need assistance, and also assistance for domestic wells.

A recent study showed that 40 percent of pesticides used in California actually end up having PFAS in them, and as that percolates in the groundwater, we need to make sure that everybody is protected, including domestic well owners.

Senator Ricketts. Great. Thank you very much.

Mr. Chairman, thank you.

Senator Padilla. Thank you, Senator Ricketts. You may be out of time in this first round of questions, but we have a second round for additional responses or additional questions. Once again, I get to begin.

During the COVID pandemic, and you addressed this in your earlier comments, Ms. Menard, Congress recognized the risk of impending water shutoffs and growing debt nationwide and provided more than $1 billion to cover water debt and restore

connections for low-income households. To do this, Congress created the Low-Income Household Water Assistance Program. For folks watching at home, when you hear LIHWAP, that is what we are talking about, the first Federal program to assist low-income families with their water bills.

That program expires this year, as does the one-time funding provided by Congress to cover water debt. It covers reconnection services; it covers late fees and reduces water rates.

I have advocated for additional funding and an extension of the program as a bridge to a permanent water assistance program that several of you have suggested. Ms. Menard, I was glad to hear that Santa Cruz participated in LIHWAP to help your customers access one-time payments and temporary support. What will happen if LIHWAP expires and we don't replace it with a permanent water assistance program?

Ms. Menard. That is a great question. Thank you for that.

One of the things that we are concerned about is that we won't have the one-time funding to help particular people who get in arrears, which if you are low-income and you are making this trade-off every month, it is pretty easy even once you get the help of having your slate cleaned to find yourself back there again. I think that we would find ourselves in a situation where setting people up for down payment or giving

people payment arrangements is something that would become much more frequent.

One of the things we have done about, just in the last couple of weeks since the COVID era prohibition against disconnections has occurred, actually expired in California, is we have had just 50 payment arrangements that were set up just in the last couple of weeks. The average amount of those payment arrangements is $198 a month for 12 months.

So that is going to be a really big burden for someone who is already struggling to be able to pay in order to clear that arrearage. I think the bottom line for us is that we would have a lot more people facing shutoffs for non-payment.

Senator Padilla. Mr. Jones, a brief response, if you would. Do you think it makes sense that we have a permanent energy assistance program, LIHEAP, I referenced that earlier, but not a permanent program for water?

Mr. Jones. Absolutely not. We need support for water assistance.

Senator Padilla. Anybody disagree with that? All right, thank you. Let the record reflect all witnesses' heads nodded no.

One additional question, and then I will recognize Senator Lummis again. Mr. Jones and Mr. Pepper, both of you, in your written testimonies, discussed the challenges that small, rural,

or disadvantaged water systems face to develop solutions and create needed projects to deliver and to treat water. That is just to develop the pipeline of projects that could potentially receive Federal or State funding. You discussed issues related to economies of scale and the lack of a large ratepayer base to spread costs.

Could you each expand on the challenges communities face in accessing infrastructure dollars, and what are some of the solutions that you have seen, particularly if it sheds light on what Congress can do to help in this regard?

Mr. Jones. Thank you. Some of the challenges we are facing, like I said, a lot of times, projects need a lot more technical assistance, not only to understand what a long-term solution is that works for the community, but also gets community support and buy-in, which is absolutely critical.

I think the famous story in California is about Lennar, California. That is a community that faced arsenic in their drinking water. They funded a treatment project for that community, but unfortunately, because it wasn't right sized for the community, that project was shuttered when the community couldn't afford operations and maintenance costs.

One thing we are doing in California is looking at starting to fund operations and maintenance for certain projects to actually make it so that solutions are affordable for

communities. I think, going forward, that has to be part of the conversation to figure out how making sure that communities are able to run systems is part of the solution.

Mr. Pepper. Thank you, Mr. Chairman. In Wyoming, I know we have a myriad of funding programs in addition to the Federal programs, the State Revolving Funds. I think the State Revolving Funds were a great addition to the funding mechanisms. Giving the States the opportunity to design their own rules and regulations around the SRFs is critical.

Every State is a little different, which does make it a little tough to go from State to State to State, which makes in-State technical assistance so critical. But I do think that some of the timelines that come with that funding need to be addressed and need to be looked at a little bit differently.

Like I said, the SRF, the infrastructure bill, some of those funding sources and timelines are just unrealistic, given the supply chain issues, given the technical abilities of having enough engineers and contractors who can do the work, and then also having the workforce that can then maintain it after everything is all done.

Senator Padilla. I know my second round five minutes are up, but if you will indulge me, I have one specific follow-up question for Mr. Jones. I believe it is a timely one.

As we speak, I believe the House of Representatives is

taking up this debt limit deal. Now, the debt limit deal currently under consideration rescinds unobligated LIHWAP funds from the American Rescue Plan. Funds to States and Tribes have all been obligated; that is the good news, but this will impact the HHS budget for staff time and for expenses.

So how will this impact, question for Mr. Jones, the ability of communities to implement their LIHWAP funds if HHS has decreased capacity for staffing?

Mr. Jones. I think it is certainly going to pose a challenge. In California, there has been a lot of conversation between our State agencies that are implementing the program and HHS and a lot of assistance coming from HHS on how to better structure California's program. Unfortunately, California hasn't been as successful as other States in getting funding out the door. So certainly, making sure that HHS has the ability to support States in getting resources to families is going to be absolutely critical.

Secondly, there is a lot of important work being done on reporting and getting data out there so that we can understand who is doing what work and why. As I look to think about how California could do a better job, I see States like Pennsylvania, Michigan doing fantastic, and that makes me want to learn about them.

So I worry that if we are not going to have the ability to

data share and staff to help, that we are not going to be able to improve upon the program and the model of delivery going forward.

Senator Padilla. Thank you. I just wanted to underscore that, because I think part of the dynamic we are facing here for small, for rural, for resource-limited water utilities and communities, sometimes reliance on the Federal Government for some of that technical assistance and support is part of getting to a solution. So if that is limited on the Federal side, separate and apart from a dollar, a grant, or a favorable loan, this is hurting more than it is helping.

Senator Lummis, thank you for your patience.

Senator Lummis. Thank you, Mr. Chairman. I have a question for Ms. Menard. My line of questioning for Mr. Pepper dealt mostly with maximum contaminant limits and CERCLA. Could you address those questions as well, please, from your community's perspective?

Ms. Menard. Thank you, yes. I think the CERCLA question in our community is mostly on the wastewater side. To some degree, we have it in our surface water, but at a really, really low level, so I am not too concerned about the CERCLA issues for solids coming from the water treatment plant, but obviously we are looking at that.

Also, on the wastewater side is one of the places where the

CERCLA liability is really getting looked at, because they obviously get water coming from households and businesses, and those sources can often have other additional adds of the PFAS.

I think on the question of the impacts, I mentioned in my earlier comments about looking at granular-activated carbon and its capital costs plus its operating costs, that does potentially represent a long-term concern. I also know that it is really important in my community for there to be a strong commitment and strong action on improving the quality and being good stewards of the quality of the treated water that is delivered.

In my community, we have a strong preference for doing what we can to deal with these issues that come, including other constituents of emerging concern, pharmaceuticals, personal care products, those kinds of things that fall in the source waters that we use, and those things are being planned for as part of our treatment plant upgrade.

Senator Lummis. Thank you.

There are other committee hearings going on this afternoon. We have some members of the committee that are elsewhere, but wanted some questions asked for the record.

This one is for Mr. Pepper. There are concerns within the water sector that funding decisions that are prioritizing environmental justice factors are unrelated to water quality and

health. This could potentially impact the affordability of water services for rural communities, which already face unique challenges, such as limited funding, technical expertise, and resources.

The question is this: do you believe the emphasis on non-water infrastructure policies and potential biases that are related to environmental justice decision-making might affect affordability of water services in rural areas?

Mr. Pepper. Thank you for that question. Yes. I guess, from the west, and from my perspective, a lot of the issue that we have is defining disadvantaged or environmental justice centers or constituents. I would contend that a lot of rural America, whether it is north, east, south, or west, works with those.

We have a declining population base in a lot of those areas, which further puts strain on affordability in those small communities, aging communities, and disadvantaged, I believe, can be socioeconomic. That crosses all races and goes into, how do we look at that on a Country-wide basis, as opposed to certain pockets.

Yes, some of those biases, I think, can play into the affordability index and makes it far more difficult to define more than anything.

Senator Lummis. The question comes from someone who is

concerned that environmental justice is being used as a term to steer resources towards low-income urban areas at the expense of rural areas. Mr. Jones, do you see that?

Mr. Jones. I haven't seen that so much in California. I think the communities we work with are certainly both rural and environmental justice communities.

Senator Lummis. So you distinguish it, you separate it? There is rural and there is environmental justice communities?

Mr. Jones. A community could be both, for sure. Maybe the disadvantaged community definition we use in California is 80 percent State-wide income level. So certainly for the valley and areas that we primarily work in, most communities are able to qualify, unfortunately, just because of the level of income inequality in the State. But I haven't seen so much of a dynamic there in California, at least.

Senator Lummis. Mr. Pepper, any closing remarks on that point?

Mr. Pepper. I think he hit it very well. It just depends on the level of income in any area. In our State of Wyoming, there are several counties that are impacted and low-income, but define lower income, a lot of those are ag-related, so there is a different accounting in an ag business than there is in residential.

I think there is, again, it comes back down to definitions.

I would say that it does appear, in some respects, even in Wyoming. Some of the urban thrust versus the rural thrust is there, so that should be addressed.

Senator Lummis. Thank you.

Mr. Chairman, I yield back, and I want to thank the witnesses for attending today and providing their expertise to the subcommittee.

Senator Padilla. Thank you to you, Senator Lummis, and to our witnesses, once again, for being here today and for sharing your experiences to help us improve the lives of countless Americans who are still struggling to afford something as fundamental as their water.

Again, I want to thank Chairman Carper and Ranking Member Capito, as well as our subcommittee staff for all the preparation that went into holding today's hearing which, I think, just for the record, that we have established a success.

In the end, we can't be truly an equal society, we can't truly call ourselves a compassionate country, and no one can truly pursue life, liberty, and the pursuit of happiness unless every family has the dignity of safe drinking water and proper sanitation.

The issue of water affordability in America could not be more important and more timely. That is why it has been a defining feature of many of the major funding bills that

Congress has passed over the last few years. We have recognized the problem of deteriorating infrastructure, rising prices, and an economic crunch. We have stepped in to help the American people.

That is the good news. But the bad news is, as we have heard from our witnesses today, we still have much more work to do. What we heard from Mr. Jones, for example, should leave no doubt that families are still struggling to stay afloat.

While recent laws have made a difference, one-time assistance is not a solution for a family sitting at the kitchen table deciding between the next grocery store trip or next month's water bill. Unfortunately, as we learned from Ms. Menard and Mr. Pepper, the conditions of our aging infrastructure, combined with the increasingly devastating effects of climate change and the challenges posed by emerging contaminants, including PFAS, mean that none of this will be resolved on its own. Congress needs to step up.

But I am hopeful that previously approved water assistance funding and the permanent energy utility assistance programs that were referenced earlier today have enjoyed bipartisan support. Congress has recognized the threat of rising costs of home energy bills. So in 1980, we established a permanent Low-Income Home Energy Assistance Program for families in need. There is no reason that we can't do the same for water rate

assistance. I believe we can and we must come together in a bipartisan fashion to make these meaningful investments.

Countless families across the Country are counting on us to do just that, because for them, this isn't just about policy. It is about the dignity of having clean water to wash your dishes and bathe your children. It is about the peace of mind knowing your kids have clean water to drink at school, and it is about making sure that every American, no matter the ZIP code or your paycheck, has access to safe, affordable water.

Before we adjourn, just a bit of housekeeping. Senators will be allowed to submit written questions for the record by 4:00 p.m. on Wednesday, June 14th, which is two weeks from today. We will compile those questions, send them to our witnesses, who we will ask to reply by Wednesday, June 28th.

I want to thank you all again for being here this afternoon. With that, this hearing is adjourned.

[Whereupon, at 3:57 p.m., the hearing was adjourned.]